

REMARKS

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

I. CLAIM STATUS AND AMENDMENTS

Claims 1-13 were pending in this application when last examined.

Claims 1-6 and 8-13 were examined on the merits and stand rejected.

Claim 7 was objected to.

Claims 1, 2 and 8 are cancelled without prejudice or disclaimer thereto.

Claims 3 and 9 are amended to recite “anti-PTHrP(1-34) antibody”. Support for this amendment can be found on page 21, lines 1-5 of the specification as filed. Claims 3 and 9 are also amended to recite the limitations of the claims from which they depend.

Claim 4, 7, 10 and 11 are amended to clarify the claimed invention and to correct informalities.

No new matter has been added.

II. WRITTEN DESCRIPTION/ENABLEMENT REJECTION

On pages 2-4 of the Office Action, Claim 7 was rejected under 35 U.S.C. § 112, first paragraph, for failing to meet the written description and enablement requirements. In particular, the Office indicated that the specification lacked complete deposit information for the deposit of FERM BP-5631. The Office particularly noted that the application did not state that all restrictions upon public access of the deposited material will be irrevocably removed upon the grant of a patent on this application.

It is noted that a copy of the deposit receipt of the hybridoma of Claim 7 deposited as FERM BP-5631 was submitted with the application filing papers.

Pursuant to 37 CFR § 1.808, (1) access to this deposit will be available during pendency of the patent application making reference to the deposit to one determined by the Director to be entitled thereto; and (2) subject to paragraph (b) of 37 C.F.R § 1.808, all restrictions imposed by the depositor on the availability to the public of the deposited material will be irrevocably removed upon the granting of the patent.

Thus, in view of the above, these rejections as applied to amended Claim 7, are untenable and should be withdrawn.

III. OBVIOUSNESS REJECTION

On pages 5-7, Claims 1-6 and 8-13 were rejected under 35 U.S.C. § 103(a) as obvious over Yoshida et al. in view of Zenmyo et al. as evidenced by Miyajii et al. Applicants respectfully traverse this rejection as applied to the amended claims.

Applicants note that Claim 3, as amended, is directed towards a method for treating chondroma and chondrosarcoma comprising administering anti-PTHrP(1-34) antibody. On the other hand, Yoshida et al., cited by the Office, shows inhibition of the proliferation of cells that are stimulated by PTHrP(34-53). Thus, Yoshida et al. fails to teach or suggest inhibition of chondroma and chondrosarcoma by administration of only anti-PTHrP(1-34) antibody.

On the other hand, Claim 9 is directed towards a method of inducing apoptosis in chondroma and chondrosarcoma cells by administering anti-PTHrP(1-34) antibody. Again, Yoshida et al. only teaches inhibition of cells pre-treated with the noted PTHrP fragment. Thus, this reference fails to teach or suggest the claimed invention.

Furthermore, neither Zenmyo et al. nor Miyajii et al. addresses this deficiency. It is further noted that even if, arguendo, Zenmyo et al. teaches PTHrP up-regulates cell proliferation, this does not mean that a PTHrP antagonist would cause apoptosis or inhibit cell proliferation in chondrosarcoma or chondroma.

Furthermore, Applicants note that US 6,903,194, copy enclosed, teaches that administration of anti-PTHrP(1-34) antibody does not inhibit proliferation of ordinary tumor cells. Please see Example 10 in col. 59-64. In particular, please see col. 61, lines 1-9 and Figures 27 and 28. Thus, this reference teaches away from the claimed invention.

For the above-noted reasons, this rejection is untenable and should be withdrawn.

CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and early notice to that effect is hereby requested.

If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

Respectfully submitted,

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